

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112(A) or (B)

NOTICE OF PROPOSED RULES

MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT, AIR QUALITY DIVISION

1. Heading and number of the proposed rule, ordinance, or other regulations:

Rule 210 (Title V Permit Provisions)

Rule 220 (Non-Title V Permit Provisions)

Rule 314 (Open Outdoor Fires)

2. Summary of the proposed rules, ordinance, or other regulations:

Maricopa County is proposing to revise Rule 210 in order to address the Environmental Protection Agency's (EPA's) comments regarding Title V permit application processing procedures, Rule 220 in order to clarify public participation requirements for Non-Title V permit applications and for Non-Title V permits, and Rule 314 to address approvability deficiencies identified in the Federal Register (66 FR 730) on January 4, 2001.

The revisions to Rules 210 and 220 proposed in this rulemaking were originally part of another proposed rulemaking to implement a statewide emissions bank. The State has been delayed in finalizing the emissions bank rule, so Maricopa County is postponing the rulemaking regarding revisions to Rules 210, 220, and 240 to match the State's emissions bank rule. In the meantime, Maricopa County needs the Maricopa County Board Of Supervisor's action on the remaining proposed revisions to Rules 210 and 220 and on Rule 314 deficiencies, to avoid EPA sanctions.

Description Of Revisions To Rules 210 And 220:

- **Rule 210, Subsection 301.4(h) (Permit Application Processing Procedures):** In July 2001, EPA reviewed Maricopa County's Title V Permit Program rules. EPA made a recommendation to clarify Rule 210, Subsection 301.4(h). While action on the recommendation was not needed for Title V Permit Program approval, EPA believed that the clarification would improve the rule and should be addressed in Maricopa County's next rulemaking process to revise Rule 210. In order to comply with EPA's recommendation, Maricopa County is proposing to delete in its entirety the current text of Rule 210, Subsection 301.4(h) and is proposing to add the following new text: "Rather than supplying detailed information, an applicant may list and generally group activities that are insignificant as defined in Rule 100 (General Provisions And Definitions) of these rules. If the Control Officer determines that an activity listed in an application as insignificant does not meet the definition of insignificant activities, then the Control Officer shall notify the applicant in writing and shall specify additional information required. To be complete, an application may not omit information regarding insignificant activities that is needed to determine the following: (1) the applicability of or to impose any applicable requirement; (2) whether the source is in compliance; or (3) the fee amount required under these rules."

- **Rule 220, Subsection 407.3 (Public Participation):** Maricopa County is proposing to add the heading "Public Notice for Permits Issued" to Subsection 407.3.

- **Rule 220, Subsection 407.4 (Public Participation):** Maricopa County is proposing to add new Subsection 407.4 to Rule 220. New Subsection 407.4 is proposed to read as follows: "Public Hearing: The Control Officer shall hold a public hearing to receive comments on petitions for conditional orders, which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Control Officer shall hold a public hearing only upon written request. If a public hearing is requested, the Control Officer shall schedule the public hearing and publish a notice once each week for two consecutive weeks in two newspapers of general circulation in the County where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing." This text was in Rule 220 as adopted by the Maricopa County Board of Supervisors on March 4, 1998. However, in an effort to streamline the air permitting process, Maricopa County proposed deleting this text from Rule 220 and on July 26, 2000, the Maricopa County Board of Supervisors adopted Rule 220 without this text. But this text is required by ARS § 49-426(D) and by ARS § 49-480(B) and is included in ADEQ's Section R18-2-330 (Public Participation), so Maricopa County is proposing that this text be returned to Rule 220.

- **Rule 220, Subsection 407.5 (Public Participation):** Maricopa County is proposing to add new subsection 407.5 to Rule 220. New Subsection 407.5 is proposed to read as follows: "At the time the Control Officer publishes the first notice under subsection 407.1 of this rule, the applicant shall post a notice containing the information required in subsection 407.2 of this rule at the site where the source is or may be located. Consistent with Federal, State, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the public hearing. Any posting shall be maintained until the public comment period is closed." This text was in Rule 220 as adopted by the Maricopa County Board of Supervisors on

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

March 4, 1998. However, in an effort to streamline the air permitting process, Maricopa County proposed deleting this text from Rule 220 and on July 26, 2000, the Maricopa County Board of Supervisors adopted Rule 220 without this text. But this text is required by ARS § 49-426(D) and by ARS § 49-480(B) and is included in ADEQ's Section R18-2-330 (Public Participation), so Maricopa County is proposing that this text be returned to Rule 220.

- **Rule 220, Subsection 407.6 (Public Participation):** Maricopa County is proposing to add new subsection 407.6 to Rule 220. New Subsection 407.6 is proposed to read as follows: "The Control Officer shall provide at least 30 days from the date of its first notice for public comment. The Control Officer shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the Control Officer's responses shall be made available to the applicant and to all commenters." This text was in Rule 220 as adopted by the Maricopa County Board of Supervisors on March 4, 1998. However, in an effort to streamline the air permitting process, Maricopa County proposed deleting this text from Rule 220 and on July 26, 2000, the Maricopa County Board of Supervisors adopted Rule 220 without this text. But this text is required by ARS § 49-426(D) and by ARS § 49-480(B) and is included in ADEQ's Section R18-2-330 (Public Participation), so Maricopa County is proposing that this text be returned to Rule 220.

Description Of Revisions To Rule 314:

Maricopa County is proposing to revise Rule 314 in order to correct deficiencies identified in the EPA's finalized limited approval and limited disapproval of Rule 314 that was published in the Federal Register (66 FR 730) on January 4, 2001. Maricopa County is also proposing to revise Rule 314 to incorporate revisions that Maricopa County proposed (but never finalized) in 1998-1999 regarding New Rule 203 (Permit Requirements For Open Outdoor Burning Activities). By incorporating revisions that Maricopa County proposed (but never finalized) in 1998-1999 regarding New Rule 203, Maricopa County is no longer proposing New Rule 203.

Description of Rule Revisions:

- **New Section 102:** This section describes to what Rule 314 applies.
- **Section 201:** This section revises the definition of air curtain destructor, by adding the text, "in which combustion occurs".
- **New Section 202:** This section defines dangerous material. With this definition, Maricopa County is addressing EPA's concern that enforceability of Rule 314 is limited, because dangerous materials are not defined.
- **New Section 203:** This section defines ditchbank.
- **Section 205:** This section revises the definition of open outdoor fire, by deleting the text, "any type of" between the words "material" and "outdoors" and by adding the text, "any type of" between the words "combustion" and "material".
- **New Section 207:** This section defines restricted-burn period. Definition is similar to definition used in Maricopa County's Residential Woodburning Restriction Ordinance.
- **Section 301:** This section revises the original description of prohibitions to open outdoor fires, by adding restricted-burn periods.
- **Section 302:** This section describes the activities for which a Burn Permit is required. Text regarding exemptions from Rule 314 is proposed to be moved to New Section 303.
- **New Section 303:** This section describes the activities for which a Burn Permit is not required. Text in this section was the existing text in Section 302.
- **Section 401:** Typographical errors are being corrected in this section, which describes the fees associated with a Burn Permit.
- **Section 402:** This section describes the Burn Permit application process/procedures. The existing text regarding fire department validation has been moved to Section 302 (Burn Permit).
- **New Section 403:** This section explains that the Control Officer may impose conditions in a Burn Permit.
- **New Section 404:** This section explains that the Control Officer may deny a Burn Permit.
- **New Section 405:** This section explains the terms for which a Burn Permit may be issued.
- **New Appendix To Rule 314:** This appendix describes the procedures for an air curtain destructor and for a burn pit. With this appendix, Maricopa County is addressing EPA's concern that the enforceability of Rule 314 is limited, because the Control Officer has discretion to approve the type of material to be burned and the type and size of equipment without any guidelines.

3. A demonstration of the grounds and evidence of compliance with A.R.S. § 49-112(A) or (B):

The Control Officer of the Maricopa County Environmental Services Department affirms the following:

Pursuant to A.R.S. § 49-112(A), as enacted in 1994, Maricopa County may adopt rules that are more stringent than or in addition to a provision of the State, provided that the rule is necessary to address a peculiar local condition; and if

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

it is either necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible or if it is required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule is equivalent to federal statutes or regulations; and if any fee adopted under the rule will not exceed the reasonable costs of the county to issue and administer that permit program.

Maricopa County is in compliance with A.R.S. § 49-112(A) in that Maricopa County is proposing to adopt revisions to Rule 210 (Title V Permit Provisions) and Rule 220 (Non-Title V Permit Provisions) that are not more stringent than nor are in addition to, but rather are consistent with, a provision of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49.

Maricopa County is in compliance with A.R.S. § 49-112(A) in that Maricopa County is proposing to adopt revisions to Rule 314 (Open Outdoor Fires) that, although more stringent than or in addition to a provision of the State, are necessary to address a peculiar local condition and to prevent a significant threat to public health or the environment. Maricopa County is classified as a serious nonattainment area for carbon monoxide (CO), ozone, and particulate matter (PM₁₀). Maricopa County's Rule 314 regulates open outdoor burning for more situations than just burning agricultural ditch banks, fence rows, and tumbleweeds, and for land clearance, as the State's rule does. Maricopa County monitors open outdoor burning for fire fighting training and for testing explosive-containing products.

The section 112(B) demonstration does not apply because these particular rules are in that portion of Maricopa County's air quality program that is administered under direct statutory authority. Therefore, these rules are not being adopted/revised in lieu of a state program.

4. Name and address of the person to whom persons may address questions or comments:

Name: Johanna Kuspert, Air Quality Planner
Address: Maricopa County Environmental Services Department
Air Quality Division
1001 North Central Avenue #695
Phoenix, AZ 85004
Telephone: (602) 506-6710
Fax: (602) 506-6179

5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations:

Name: Maricopa County Environmental Services Department
Air Quality Division
Address: 1001 North Central Avenue #201
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179

NOTICE OF PUBLIC HEARING

**MARICOPA COUNTY
ENVIRONMENTAL SERVICES DEPARTMENT, AIR QUALITY DIVISION**

1. Heading and number of the proposed rules, ordinance, or other regulations that are the subject to the public hearing:

Rule 210 (Title V Permit Provisions)
Rule 220 (Non-Title V Permit Provisions)
Rule 314 (Open Outdoor Fires)

2. Date, time, and location of public hearing scheduled

Date: Wednesday, December 19, 2001
Time: 9:00 am
Location: Maricopa County Board of Supervisors Auditorium
205 W. Jefferson St.
Phoenix, AZ

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

Nature of Public Hearing: To Discuss and Approve the Above Listed Rules.

3. County personnel to whom questions and comments may be addressed

Name: Johanna Kuspert, Air Quality Planner

Address: Maricopa County Environmental Services Department
Air Quality Division
1001 North Central Avenue #695
Phoenix, AZ 85004

Telephone: (602) 506-6710

Fax: (602) 506-6179

4. Any other pertinent information concerning the above described rules, ordinance, or other regulations

Please refer to the Notice of Proposed Rules that appears in this issue of the *Register* (page 5189).